

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

BOYD E. WHITE)
) Case No. 09-05188-RJB
Plaintiff,)
vs.) STIPULATION AND ORDER TO
) ADJUST DEADLINES
BNSF RAILWAY COMPANY, a Delaware)
Corporation,)
)
Defendant.)
)

Plaintiff Boyd E. White and defendant BNSF Railway Company respectfully stipulate and request this Court to enter an Order adjusting the deadlines for expert disclosures, discovery cutoff, filing of motions related to discovery and the deadline to file dispositive motions as specified below.

BACKGROUND

Plaintiff filed his complaint for personal injuries and damages with this court on April 6, 2009. The court’s minute order setting trial, pretrial dates and ordering mediation on was entered on July 22, 2009. *See* Dkt. 9 (*Minute Order Setting Trial, Pretrial Dates and Ordering Mediation*, dated July 22, 2009). Pursuant to the minute order, the parties must disclose expert testimony by October 21, 2009, file motions related to discovery by November

30, 2009, complete discovery by December 21, 2009 and have all dispositive motions heard by January 19, 2101. *See* DKT 9. To “secure the just, speedy, and inexpensive determination” of this case as required by Fed. R. Civ. Pro. 1, plaintiff and BNSF stipulate and respectfully request that the deadlines for expert disclosure, filing motions related to discovery, discovery cutoff, and filing dispositive motions be adjusted as follows:

Event	Current schedule	Proposed schedule
Disclosure of Expert Testimony	October 21, 2009 (per FRCP 26(a)(2)) (180 days before trial)	December 20, 2009 (120 days before trial)
Last Date to File Motions Related to Discovery	November 30, 2009 (140 days before trial)	January 8, 2010 (101 days before trial)
Discovery Cut-off	December 21, 2009 (119 days before trial)	January 29, 2010 (80 days before trial)
Last Date to File Dispositive Motions	January 19, 2010 (days before trial)	February 17, 2010 (61 days before trial)
Trial	April 19, 2010	April 19, 2010

ARGUMENT

The Federal Rules of Civil Procedure require a party to make its expert disclosure(s) “at the times and in the sequence that the court orders.” Fed.R.Civ.Pro. 26(a)(2)(C). The Western District’s Local Civil Rules provide that although 120 days before trial is the typical baseline for discovery cutoff, the court may adjust that date. *See* CR 16(f). Similarly, 90 days before trial is the standard deadline to file dispositive motions “unless otherwise ordered by the court.” CR 16(g). A party may request that the court adjust scheduling deadlines pursuant to Fed.R.Civ.Pro. 6(b), which states that “the court may, for good cause, extend the time” if “a request is made, before the original time . . . expires. . . .”

Both parties believe good cause exists to push back the deadlines for disclosure of expert testimony, deadline for filing motions related to discovery, discovery cutoff and deadline for filing dispositive motions closer to the trial date. Plaintiff underwent a second

1 lumbar fusion in on September 10, 2007. Defendant received plaintiff's signed stipulations
2 allowing defendant to collect up to date medical records on September 16, 2009: just over one
3 month before expert disclosures are due. Defendant has not yet obtained all requested records
4 and at this time, has no up-to-date medical information regarding plaintiff's complaints or his
5 need for ongoing medical treatment. Without this information, defendant is unable to ascertain
6 what type of a medical expert is needed for trial purposes and thus unable to produce expert
7 disclosures timely.

9 The parties make this request in good faith. The current dates for expert disclosures,
10 deadline for filing discovery motions, discovery cut-off, and deadline for hearings on
11 dispositive motions will be difficult to meaningfully comply with given the amount of
12 discovery still left to do on this case. Both clients and the justice system would be better
13 served by allowing the parties more time to fully and properly prepare their cases. The parties,
14 by bringing this stipulation, agree that they will not be prejudiced or harmed by an extension
15 of deadlines. This is the first request for extension of time requested by the parties.

17 For those reasons, both parties respectfully request the court adjust the Scheduling
18 Order as proposed herein.

19 DATED this 30th day of September, 2009.

<u>s/ Jim Vucinovich</u> Jim Vucinovich Attorney for Plaintiff, Boyd E. White Rossi Cox Vucinovich & Flaskamp, PC 10900 NE 8 th Street, Suite 1122 Bellevue, WA 98004-4456 (425) 646-8003 Fax: (425) 646-8004	<u>s/ Bradley Scarp</u> Bradley P. Scarp Debra Dickerson Attorneys for Defendant, BNSF Railway Montgomery Scarp MacDougall, PLLC 1218 3rd Ave, Ste 2700 Seattle, WA 98101-3237 (206) 625-1801 Fax: (206) 625-1807
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2 **ORDER**

3 IT IS SO ORDERED.
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5 DATED this 30th of September, 2009.
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10 Honorable Robert J. Bryan
11 U.S. District Court Judge
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3 **CERTIFICATE OF SERVICE**

4 I am over the age of 18; and not a party to this action. I am the assistant to an attorney
5 with Montgomery Scarp MacDougall, PLLC, whose address is 1218 Third Avenue, Suite
6 2700, Seattle, Washington, 98101.

7 I hereby certify that a true and complete copy of the STIPULATION AND
8 [PROPOSED] ORDER TO ADJUST DEADLINES has been filed with the U.S. District Court
9 via the ECF system which gives automatic notification to the following interested parties:

10 Jim Vucinovich
11 Rossi Cox Vucinovich & Flaskamp, PC
12 10900 NE 8th Street, Suite 1122
13 Bellevue, WA 98004-4456
14 Phone: (425) 646-8003
15 Fax: (425) 646-8004

16 I declare under penalty under the laws of the State of Washington that the foregoing
17 information is true and correct.

18 DATED this 30th day of September, 2009, at Seattle, Washington.

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28 s/AllisonWhitney
Allison Whitney